

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

29591

**FILE:** B-216566; B-216566.2 **DATE:** October 18, 1984

**MATTER OF:** Carter Construction Company, Inc.

**DIGEST:**

GAO does not consider protests relating to the small business size status of a concern because the Small Business Administration has conclusive authority to determine size status.

Carter Construction Company, Inc. protests award under solicitations DACW03-84-B-0040 and DACW03-84-B-0041, issued by the Little Rock District, Corps of Engineers. Carter contends that the apparent low bidder, McAlister Construction Company, Inc., does not satisfy the small business set-aside restrictions of the solicitations because its possible affiliation with other companies causes its annual sales to exceed the monetary criteria prescribed for small business concerns.

Under 15 U.S.C. § 637(b)(6) (1982), the Small Business Administration (SBA) has conclusive authority to determine matters of small business size status for federal procurement purposes. Therefore, our Office does not consider size status protests. 4 C.F.R. § 21.3(g)(2) (1984); Custodial Guidance Systems, Inc., B-213920, Dec. 28, 1983, 84-1 CPD ¶ 36. Under the applicable regulations, a protest of a bidder's small business size status must be filed with the contracting officer who in turn forwards the matter to the SBA for resolution. Federal Acquisition Regulation, § 19.302, 48 Fed. Reg. 41,102, 42,246 (1983) (to be codified at 48 C.F.R. § 19.302).

The protest is dismissed.

*Harry R. Van Cleve*  
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General Counsel

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